

PAUL, REICH & MYERS, P.C.

By: Robert E. Paul, Esquire

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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JACKIE L. SULLIVAN, Executrix of the
Estate of JOHN L. SULLIVAN,
deceased, and widow in her own right

vs.

A.W. CHESTERTON, INC., et al.

:CIVIL ACTION

:

:

:

:NO. 18-CV-3622

:

:ASBESTOS CASE

ANSWER TO MOTION OF SELBY FOR JOINDER IN
JOHN CRANE'S MOTION TO DISMISS

As argued in answer to John Crane's motion if defendants are going to insist that plaintiff comply with deadlines they must also do so. Defendant failed to comply with its deadlines.

Very truly yours,

PAUL, REICH & MYERS, P.C.

BY: 

ROBERT E. PAUL

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	:
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MEMORANDUM OF LAW

As argued in response to John Crane's motion plaintiff believes that the 10 day gap between the date on which the Court ordered the Amended Complaint to be filed and the date of filing should be excused due to the illness of plaintiff's counsel. Such a ruling would comply with the US Supreme Court's ruling in *Pioneer Investment Service v. Brunswick*, 507 US 380 (1993) which held Courts are permitted to accept late filings caused by mistake, carelessness or inadvertent circumstances. Illness is one such circumstance. Further, extending the deadline comports with the Court's ruling in *Grabenstein v. A.O. Smith*, 2012 WL 2849389 (USDCEPA, Robreno) which permitted defendant to file its answer a year late¹. Since the Court grants defendant leave to file pleadings late it should extend the same rule to plaintiff. In the instant this movant was required to file its answer to state complaint on August 29, 2018

¹ Judge Savage, in *Kraus* has allowed both sides to file pleadings late in *Kraus* 18-2119.

under FRCP Rule 81. In fact, it filed its first pleading of any kind on September 21, 2018 and was thus untimely. If defendants insist on strict compliance with deadlines then a default should be entered against movant. Plaintiff is not urging the result but urges relaxing the rules to accommodate all as the Supreme Court ruled.

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ORDER

AND NOW, to wit, this _____ day of _____, the motion of Selby for leave to
join John Crane's motion is **Granted**.

John Crane's motion and this joinder of Selby are **DENIED** on the merits.

BY THE COURT:

J.

CERTIFICATE OF SERVICE

The undersigned certify that a true and correct copy of the within Plaintiff's Answer to Selby's Motion for Joinder in John Crane's Motion to Dismiss has been filed electronically. This document is available for viewing and downloading from the ECF system and was served upon all counsel of record.



Robert E. Paul

Date: May 14, 2019